

## INTERIM RULEMAKING NOTICE FORM

Proposed Interim Rule Number 2018-25 Rule Number He-W 639

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| <p>1. Agency Name &amp; Address:</p> <p><b>Dept. of Health &amp; Human Services<br/>Division of Public Health Services<br/>Food Protection Services<br/>29 Hazen Drive<br/>Concord, NH 03301</b></p> <p>5. Filing Date: <b>December 5, 2018</b></p> | <p>2. RSA Authority: <b>RSA 167:3-c, I; Chapter Law 342:3, VI</b></p> <p>3. Federal Authority: <b>42 U.S.C. 1315, Pub.L. 111-148, 42 U.S.C 1396(a)(10)(A)(i)(VIII)</b></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p> |
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6. Short Title: **Granite Workforce Pilot Program**

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

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|----------|--|----------|--|
| Name:    | <b>Kim Reeve, Esq.</b>   | Title:   | <b>Legal Counsel- Admin Rules</b>  |
| Address: | <b>NH Dept. of Health &amp; Human Services<br/>Administrative Rules Unit<br/>129 Pleasant Street<br/>Concord, NH 03301</b> | Phone #: | <b>271-9640</b>  |
|          |  | Fax#:    | <b>271-5590</b>  |
|          |  | E-mail:  | <a href="mailto:kimberly.reeve@dhhs.nh.gov">kimberly.reeve@dhhs.nh.gov</a> |

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:

<http://www.dhhs.nh.gov/oos/arv/comment.htm>

8. Summary explaining the effect of the rule:

The proposed new rule, He-W 639, describes services, employer subsidies and employment support services available through the Granite Workforce Pilot Program (GWPP) to eligible Granite Advantage beneficiaries. The pilot program will use federal funds from the Temporary Assistance to Needy Families (TANF) program to assist Granite Advantage beneficiaries in meeting the 100 hour per month community engagement requirement.

In 2018, Chapter Law 342 (SB 313) replaced the New Hampshire Health Protection Program (NHHPP), which expires on 12/31/18, with the Granite Advantage Health Care Program (Granite Advantage) under RSA 126-AA effective on January 1, 2019, and it establishes the GWPP to assist Granite Advantage beneficiaries in meeting the community engagement requirements. In accordance with SB 313, the Department of Health and Human Services filed a waiver amendment and extension with the Centers for Medicare and Medicaid Services (CMS) to continue its existing authority to implement work and community engagement requirements as a condition of continued eligibility under section 1902(a)(10)(A)(i)(VIII) [42 U.S.C 1396(a)(10)(A)(i)(VIII)] of the Social Security Act. The waiver was approved by CMS on November 30, 2018. The Department is entering into interim rulemaking pursuant to RSA 541-A:19, I(a) in order to meet the NH statutory requirement to implement the Granite Advantage program and the GWPP on 1/1/19.

9. Listing of people, enterprises, and government agencies affected by the rule:

**The proposed rule affects eligible Medicaid beneficiaries who voluntarily participate in GWPP to receive assistance with meeting the 100 hours a month community engagement requirement, and employers who hire GWPP participants.**

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

| <b>Rule Section</b> | <b>Statute Implemented</b>              |
|---------------------|---|
| He-W 639.01         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.02         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.03         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.04         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.05         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.06         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.07         | RSA 126-AA; RSA 376; RSA 376-A          |
| He-W 639.08         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.09         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |

11. Summary of the effect upon the state if the rule were not adopted:

**If the interim rule were not adopted, the Department would not be able to provide a pilot work program for those receiving Medicaid coverage via the Granite Advantage Program.**

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

**December 20, 2018**

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 18:202, dated November 29, 2018

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

Not applicable, as this is a new rule.

**2. Cite the Federal mandate. Identify the impact of state funds:**

No federal mandate, no impact on state funds.

**3. Cost and benefits of the proposed rule(s):**

There is no cost or benefit to the propose rule. Any cost or benefit is attributable to Chapter 342:2-9, Laws of 2018.

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To Independently owned businesses:**

None.

**Adopt He-W 639 to read as follows:**

## CHAPTER He-W 600 FINANCIAL ASSISTANCE AND ELIGIBILITY FOR MEDICAL CARE

## PART He-W 639 GRANITE WORKFORCE

He-W 639.01 Purpose. The purpose of this part is to implement the granite workforce pilot program (GWPP) established in Chapter Law 342:3-9, 2018.

He-W 639.02 Subject To Available Funding. The services provided under this part are subject to the continuing availability of Temporary Assistance for Needy Families (TANF) funds as described in Chapter Law 342:9, 2018.

He-W 639.03 Definitions.

- (a) “Beneficiary” means an individual determined eligible and currently receiving Medicaid.
- (b) “Department” means the New Hampshire department of health and human services.
- (c) “Employer subsidy” means a payment made to an employer in accordance with Chapter Law 342:9, 2018.
- (d) “Granite advantage health care program (granite advantage)” means the granite advantage health care program established under RSA 126-AA.
- (e) “Granite workforce representative” means an employee of New Hampshire employment security or the department.
- (f) “Participant” means a beneficiary enrolled in the granite advantage and receiving GWPP services under this part.
- (g) “Month” means the total wages paid by the employer during the prior four weeks.
- (h) “New Hampshire employment security (NHES)” means New Hampshire employment security.

He-W 639.04 Participant Eligibility.

- (a) To be eligible to receive GWPP services, a beneficiary shall be:
  - (1) In a household with a household income up to 138 percent of the federal poverty level;
  - (2) Enrolled in granite advantage;
  - (3) Mandatorily required to meet the community engagement requirement in He-W 837.03 unless exempted under He-W 837.04 and He-W 837.05; and
  - (4) One of the following:
    - a. A parent who is more than 19 years old and less than 65 years old and has a child who is less than 18 years old in the household;

b. A noncustodial parent who is more than 19 years old and less than 65 years old and has a child who is less than 18 years old; or

c. A childless adult who is more than 19 years old and less than 25 years old.

(b) A participant whose earned income increases and causes the household income to exceed 138 percent of the federal poverty level shall continue to receive GWPP services provided the household income does not exceed 250 percent of the federal poverty level, subject to (c) below.

(c) Participants in subsidized employment whose household income exceeds 138 percent of the federal poverty level and is below 250 percent of the federal poverty level shall be terminated from receiving GWPP services once the employer is paid the second the subsidy payment, pursuant to He-W 639.08 below.

(d) NHES shall verify the beneficiary is enrolled in granite advantage and determine the beneficiary's eligibility for GWPP services as described in (a) above.

(e) Any participant whose household income exceeds 250 percent of the federal poverty level shall be terminated from participation in GWPP unless (b) above is met.

(f) A beneficiary, who is otherwise exempted from the community engagement requirement under He-W 837.04 and He-W 837.05, and voluntarily participates in the community engagement requirement may request to participate voluntarily in the GWPP if they meet the requirements in (a) above.

#### He-W 639.05 Initial Assessment.

(a) NHES and the department shall determine entry into GWPP in accordance with Chapter Law 342:3,IV, 2018.

(b) A beneficiary shall participate in an initial assessment interview with a granite workforce representative as described in (a) above when the beneficiary volunteers to participate in GWPP.

#### He-W 639.06 Activities and Services.

(a) NHES shall offer the following activities and services to participants:

(1) Case management, vocational assessment, career planning and job readiness services including referral for employment support services pursuant to He-W 639.07;

(2) Referral to community agencies including but not limited to those under contract with the department to provide services to mitigate barriers to employment, and payment for these services shall be limited to four months;

(3) Referral to education and training providers including:

a. The New Hampshire community college system for training and apprenticeship opportunities;

b. The department of business and economic affairs for available training funds and support services;

- c. The department of education for education and employment programs for youth; and
  - d. Other available post-secondary educational programs, training programs, and apprenticeship programs;
- (4) Referral for education, training, apprenticeships and direct job placement;
  - (5) Direct placement into subsidized employment for industry specific skills for jobs in high need areas, as determined by the NHES based upon workforce shortages; and
  - (6) Referral to services to assist meeting the work and community engagement requirements in He-W 837.03.

He-W 639.07 Employment Support Services.

(a) Participants shall receive employment support services, when approved by a granite workforce representative, as funding and budgets permit.

(b) Employment support services shall be available for participants who have met the requirement of He-W 639.04 and He-W 639.05 above.

(c) Participants shall receive the employment services listed below:

(1) Mileage reimbursement shall be provided for transportation to and from approved activities listed in He-W 639.06 subject to the following:

- a. Mileage reimbursement shall not exceed \$160 per month;
- b. Participants shall not receive mileage reimbursement for more than 4 months out of the state fiscal year;
- c. Participants shall provide the following information to the department for mileage reimbursement:
  - 1. Mileage to and from the approved GWPP activity; or
  - 2. Verification of the actual cost of transportation to and from the approved activity;
- d. Mileage reimbursement shall be paid as follows:
  - 1. The actual cost of transportation to and from the approved GWPP activity; or
  - 2. The number miles traveled multiplied by \$0.30; and
- e. Reimbursement shall be provided for verified rides purchased from a public for hire transportation agency under contract with the New Hampshire department of transportation, the United States department of transportation, or a registered common carrier under RSA 376 and RSA 376(a) directly for transportation services.

(2) Tuition assistance shall be provided for allowable education and training activities pursuant to He-W 837.08(a)(5), (6) and (8) as follows:

- a. Payment shall be made to the education or training provider, including books, fees, and supplies up to \$5,000 per participant in a lifetime;
- b. Payment shall be approved by the granite workforce representative if the participant provides the following information:
  1. Name of the institution the participant attends;
  2. Verification of the courses the participant is taking; and
  3. Verification of the cost of any necessary tuition, books, fees and supplies.

(3) Financial support shall be provided for allowable education and training activities in the case of a beneficiary who has not received a high school diploma or a certificate of a high school equivalency pursuant to He-W 837.08(a)(9) and (10) as follows:

- a. Payment shall be made to the education or training provider, including books, fees, and supplies up to \$450 per participant in a lifetime;
- b. Payment shall be approved by the granite workforce representative if the participant provides the following information:
  1. Name of the institution the participant attends;
  2. Verification of the courses the participant is taking; and
  3. Verification of the cost of any necessary tuition, books, fees and supplies

(4) Emergency housing support shall be paid subject to the following:

- a. Payment shall not be greater than \$650 per household in a lifetime to assist in securing or retaining permanent housing;
- b. Payment shall be made to a landlord, management company, or bank;
- c. Participants shall:
  1. Provide verification from a landlord, management company, or mortgagee that the participant is experiencing or threatened with homelessness or unsafe or unhealthy living conditions pursuant to He-W 606.104;
  2. Indicate in writing whether the request is for a rental or mortgage payment, the amount needed to secure or retain permanent housing or a safe and healthy living situation, and the third party to be paid;
  3. Provide a signed and dated third party verification when the housing costs exceed \$650 indicating that the third party shall provide the remainder of the deposit, rent or mortgage obligation to prevent the housing crisis or ensure permanent housing; and

4. Submit the signed and dated writing that includes the required information in 1. and 2. above, and the verification required in 3. above to the granite workforce representative for review.

(5) Payment for child care registration fees shall be paid subject to the following:

a. Payment shall not be greater than \$100 per child in a lifetime and shall be paid to the child care provider;

b. Payment shall only be made for registration and shall not include other fees associated with the pre-payment of child care services or the holding or securing of child care slots;

b. Participants shall:

1. Provide verification from the child care provider indicating the child's name and the required child care registration fees;

2. Indicate the amount required to secure child care and the child care provider's information necessary for payment; and

3. Submit a signed and dated writing including the required information and verification to the granite workforce representative for review.

(c) Participants shall submit invoices for employment support services within 90 days of the granite workforce representative approving the costs of the services.

#### He-W 639.08 Employer Subsidies.

(a) Subsidies for employers shall be provided by the department as follows:

(1) Employers who hire and retain participants shall receive a wage subsidy:

a. After 3 months of continued employment from the hire date; and

b. After 9 months of continued employment from the hire date;

(2) Each wage subsidy payment shall equal 50 percent of the documented and confirmed gross wages paid by the employer to the participant for the prior month, not to exceed \$2,000 per payment;

(3) Employers shall invoice the department within 90 days after the 3 months of continued employment and within 90 days after the 9 months of continued employment;

(4) The department shall pay the employer subsidy within 90 days of receipt of invoice;

(5) The employer shall notify NHES of any improper payment within 30 days of the date the employer is aware of the overpayment; and

(6) The employer shall reimburse the department within 90 days of the notification of an improper payment in (5) above.



He-W 639.09 Termination of GWPP.

- (a) GWPP shall terminate pursuant to Chapter Law 342:9, 2018 within 20 business days when:
- (1) The department determines that the available federal TANF funds have fallen below \$40,000,000;
  - (2) The program receives no additional federal TANF funds; or
  - (3) The federal or state authority to operate granite advantage ends as stipulated in RSA 126-AA.
- (b) Any outstanding contractual or other obligations of GWPP shall be terminated as soon as practicable and in accordance with the following schedule:
- (1) Participants receiving case management services from NHES shall continue to receive case management services for up to 90 days from the program termination date;
  - (2) Participants receiving barrier reduction services from community providers under contract with the department shall continue to receive barrier reduction services for up to 30 days from the program termination date;
  - (3) Employers shall be paid qualifying wage subsidies following the 3rd and 9th month of continued employment for participants hired by the employer prior to the program termination date; and
  - (4) Participants receiving education, training, apprenticeship services from education and training facilities shall continue to receive education or training services when this service has been approved or paid for prior to the program termination date.
- (c) Payment for outstanding program obligations following program termination shall be allowed as funding and budgets permit:
- (1) Community providers, under contract with the department for barrier reduction services for participants enrolled in barrier reduction services, shall be allowed to bill the department for 90 days following the closure of all participants from the barrier reduction services;
  - (2) Employers shall be allowed to submit invoices for 90 days following the 3rd and 9th month of a participant's continued employment;
  - (3) Providers of education and training for participants enrolled in services prior to the termination date shall be allowed for 90 days following program termination date; and
  - (4) Personnel related costs for the department and NHES for staffing deemed necessary to carry out program responsibilities shall not extend beyond 12 months from the program termination date.

**APPENDIX**

| <b>Rule Section</b> | <b>Statute Implemented</b>              |
|---------------------|---|
| He-W 639.01         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.02         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.03         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.04         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.05         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.06         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
| He-W 639.07         | RSA 126-AA; RSA 376; RSA 376-A          |
| He-W 639.08         | RSA 126-AA; 2018 NH Chapter Law 342:2-9 |
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